

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT WINCHESTER

KEVIN M. HOYNES, SR.
and KEVIN M. HOYNES, JR.,

Plaintiffs,

v.

4:09-cv-42

SHERIFF MURRAY BLACKWELDER
and CHIEF ROBERT ROWE,

Defendants.

MEMORANDUM

This is a *pro se* prisoner's civil rights action pursuant to 42 U.S.C. § 1983 filed by an adult male on behalf of his fourteen-year-old son. The complaint sets forth allegations pertaining only to Mr. Hoynes, Jr.; there are no allegations that the rights of Mr. Hoynes, Sr. have been violated. At the time of the filing both individuals were confined in the Lincoln County Jail; Kevin M. Hoynes, Jr. has since notified the court that he now resides in Hazel Green, Alabama. From the record, it appeared that Mr. Hoynes, Sr. signed his son's name to the complaint and to the application to proceed *in forma pauperis*; Mr. Hoynes, Sr. signed the complaint but did not submit an application to proceed *in forma pauperis*.

Based upon the foregoing, the court ordered Mr. Hoynes, Jr. to notify the court, on or before May 29, 2009, whether he personally signed the complaint and the *in forma pauperis*

application and, if not, whether he wishes to pursue this action. Mr. Hoynes, Jr. was advised that failure to comply with the court's order would result in the dismissal of this action.

Mr. Hoynes, Jr. has failed to comply with or otherwise respond to the court's order. Accordingly, this action will be **DISMISSED WITH PREJUDICE** for failure to prosecute and to comply with the orders of the court. Fed. R. Civ. P. 41(b); *Jourdan v. Jabe*, 951 F.2d 108 (6th Cir. 1991). The court will **CERTIFY** that any appeal from this action would not be taken in good faith and would be totally frivolous. *See* Rule 24 of the Federal Rules of Appellate Procedure.

AN APPROPRIATE ORDER WILL ENTER.

/s/Harry S. Mattice, Jr.
HARRY S. MATTICE, JR.
UNITED STATES DISTRICT JUDGE